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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 MORRIS F. GRIFFIN,
12 Plaintiff,
13 v.
14 CHARLES D. ADAMS, et al.,
15 Defendants.

Case No. CV 15-08618 CAS (RAO)

**[PROPOSED] ORDER DENYING
MOTION FOR RECONSIDERATION**

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18 On December 4, 2015, Judgment entered in this matter, dismissing the action
19 with prejudice for lack of subject matter jurisdiction. *See* Dkt. Nos. 5-6. The Court
20 is in receipt of Plaintiff's Motion for Reconsideration ("Motion"), which the Court
21 construes as being asserted under Rule 60 of the Federal Rules of Civil Procedure.
22 Having reviewed the Motion, the Court finds that Plaintiff is not entitled to relief.

23 **I. DISCUSSION**

24 Rule 60(b) of the Federal Rules of Civil Procedure provides:

25 On motion and just terms, the court may relieve a party or its
26 legal representative from a final judgment, order, or proceeding
27 for the following reasons: (1) mistake, inadvertence, surprise, or
28 excusable neglect; (2) newly discovered evidence that, with
reasonable diligence, could not have been discovered in time to

1 move for a new trial under Rule 59(b); (3) fraud (whether
2 previously called intrinsic or extrinsic), misrepresentation, or
3 misconduct by an opposing party; (4) the judgment is void; (5)
4 the judgment has been satisfied, released or discharged; it is
5 based on an earlier judgment that has been reversed or vacated;
or applying it prospectively is no longer equitable; or (6) any
other reason that justifies relief.

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7 While Plaintiff does not state under which sub-paragraph of Rule 60(b) he is
8 seeking reconsideration, the only portions of Rule 60(b) that could apply are Rules
9 60(b)(1) or (6).

10 Rule 60(b)(1) affords relief occasioned by mistake. Such mistakes include
11 the Court's substantive errors of law or fact. *Fid. Fed. Bank, FSB v. Durga Ma*
12 *Corp.*, 387 F.3d 1021, 1024 (9th Cir. 2004) ("The district court has discretion to
13 correct a judgment for mistake or inadvertence, either on the part of counsel or the
14 court itself."). However, Plaintiff does not expressly allege a mistake by the Court.
15 Rather, Plaintiff repeats assertions previously made in the complaint. A Rule 60(b)
16 motion may not rehash what was previously before the Court. *See Faysound Ltd. v.*
17 *United Coconut Chems., Inc.*, 878 F.2d 290, 296 (9th Cir. 1989); *see also United*
18 *States v. Westlands Water Dist.*, 134 F. Supp. 2d 1111, 1131 (E.D. Cal. 2001) ("A
19 party seeking reconsideration must show more than a disagreement with the Court's
20 decision[.]") (citations omitted). Accordingly, the Court finds that Rule 60(b)(1)
21 does not provide Plaintiff a basis for relief.

22 Rule 60(b)(6), the so-called "catch-all provision," is to be "used sparingly as
23 an equitable remedy to prevent manifest injustice and is to be utilized only where
24 extraordinary circumstances prevented a party from taking timely action to prevent
25 or correct an erroneous judgment." *Latshaw v. Trainer Wortham & Co.*, 452 F.3d
26 1097, 1103 (9th Cir. 2006) (citation and internal quotation marks omitted). In this
27 regard, a party moving for relief under Rule 60(b)(6) "must demonstrate both injury
28 and circumstances beyond his control that prevented him from proceeding with ...

1 the action in a proper fashion.” *Community Dental Services v. Tani*, 282 F.3d 1164,
2 1168 (9th Cir. 2002) (citation omitted). Rule 60(b)(6) does not identify factors that
3 justify relief, but the Supreme Court has cautioned “that it should only be applied in
4 ‘extraordinary circumstances[.]’” *Liljeberg v. Health Services Acquisition Corp.*,
5 486 U.S. 847, 864, 108 S. Ct. 2194, 100 L. Ed. 2d 855 (1988) (citation omitted).
6 Since Plaintiff has not identified circumstances beyond his control or extraordinary
7 circumstances that would have prevented him from prosecuting this case in a proper
8 fashion, Rule 60(b)(6) also does not provide Plaintiff a basis for relief.

9 **II. ORDER**

10 The Court finds that Plaintiff has not demonstrated entitlement to relief under
11 Rule 60(b). IT THEREFORE IS ORDERED that Plaintiff’s Motion is DENIED.

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13 DATED: February 4, 2016

Christina A. Snyder

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15 —CHRISTINA A. SNYDER
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UNITED STATES DISTRICT JUDGE